IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

Crl.MC.No. 8910 of 2001()

CC.318/2001 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, NEYYATTINKARA
CRIME NO.308/2000 OF NEYYATTINKARA POLICE STATION

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PETITIONER:

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1. RAJENDRAN NAIR, S/O.SEKHARAN NAIR,
AGED 28, MELEMADATHIL VEEDU,
MARUTHATHOOR,
CHAIKOTTUKONAM, NEYYATTINKARA.

2. SURESH KUMAR, S/O.SANKARA PILLAI,
AGED 27, MADATHIL PUTHENVEEDU,
MARUTHATHOOR,
CHAIKATTUKONAM,
NEYYATTINKARA.

3. VIKRAMAN NAIR,
S/O.SANKARA PILLAI,
AGED 47, MADATHIL PUTHEN VEEDU,
MARUTHATHOOR,
CHAIKOTTUKONAM, NEYYATTINKARA.

BY ADV. SRI.R.T.PRADEEP
SRI.V.VIJU LAL

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE DIRECTOR GENERAL OF PROSECUTION,
HIGH COURT OF KERALA,
ERNAKULAM.

2. YACOB NADAR BABY, AGED 50,
KARTHIKAPPALLY VEEDU,
MARUTHOOR DESOM,
NEYYATTINKARA VILLAGE.

BY ADV. SRI.G.SUDHEER
PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON 19/09/2007 PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.M.C.No.8910 of 2001-C

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Dated this the 19th day of September, 2007

O R D E R

The petitioners who are accused in C.C.No.318/2001 in the court of the Judicial Magistrate of the First Class-I, Neyyattinkara, with respect to the offences under Sections 447, 427 read with Section 34 of the Indian Penal Code have sought for getting quashed the above proceedings alleging that the contentions are false and fabricated.

2. The allegation in the criminal case is that on 17/06/2000 the accused on account of their ill will, as the de facto complainant/second respondent did not concede to their demand for cutting open a way through the property, destroyed 240 plantains bearing fruits situated in the property. According to the de facto complainant 20 cents of property belonging to one Baburaj was taken on lease for one year on payment of Rs.2,000/- and, therein he was cultivating plantains. It is contended that the de facto complainant was an intending purchaser of the property and that out of the enmity

as the third petitioner/accused No.3 purchased the property of 30 cents including the above on 17/05/2000, a false complaint has been lodged. It is pointed out that the Investigating Officer has filed a U.N report on 16/10/2000 and the same was received by the court on 30/01/2001, which is Annexure-I. It is mentioned in the U.N report that the de facto complainant has mentioned wrong names as the accused, it was revealed in the investigation. It is alleged that thereafter the police without the sanction of the court has filed a final report dated 18/08/2000 alleging the above offences which is Annexure-II. Further the de facto complainant filed O.S.No.781/2000 against the petitioners/accused seeking compensation for damages caused on account of the alleged act. The civil suit was dismissed. At the time of hearing the counsel for the petitioners has also produced the order in appeal filed by the de facto complainant, A.S.No.63/2002 of the Sub Judge, Neyyattinkara, affirming the judgment of dismissal of the O.S.

3. I find that as per Annexure-III judgment and as per the judgment in A.S.No.63/2002, the civil court has definitely held that the complainant/respondent is not in possession of the property involved therein. Further more there is a delay of more than one

month in filing the complaint. In the circumstances and in view of the decision of the civil court, I find that the criminal proceedings initiated would not be of any consequence and no purpose would be served and hence is liable to be quashed.

In the result, C.C.No.318/2001 pending against the petitioners in the court of the Judicial Magistrate of the First Class-I, Neyyattinkara, is herewith quashed.

The criminal M.C is allowed as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.M.C.No.8910 of 2001-C

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O R D E R

19th September, 2007